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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/616,883	07/14/2000	Takeshi Kato	325772018400	6584

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EXAMINER

PHAM, THIERRY L

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/616,883

Applicant(s)

KATO, TAKESHI

Examiner

Thierry L. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed on 10/13/05.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5-14, 18-25, 27-31, 33-36, 38-42, 44-47, 49, 50, 52, 53 and 55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-14, 18-25, 27-31, 33-36, 38-42, 44-47, 49-50, and 52-53, 55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

- This action is responsive to the following communication: RCE filed on 10/13/05.
- Amendment after final filed on 8/3/05 has been entered.
- Claims 1, 5-14, 18-25, 27-31, 33-36, 38-42, 44-47, 49-50, and 52-53, 55 are pending; claims 2-4, 15-17, 26, 32, 37, 43, 48, 51, and 54 have been canceled.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/13/05 has been entered.

Claim Objections

Claim 49 objected to because of the following informalities: claim 49 cannot depend upon canceled claim 48. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-14, 18-25, 27-31, 33-36, 38-42, 44-47, 49-50, 52-53, and 55 rejected under 35 U.S.C. 103(a) as being unpatentable over Benjamin et al (US 6113208), and in view of Matsuura (US 6363402).

Regarding claim 1, Benjamin discloses a management device (printer 1, fig. 3) for managing a print system comprising a data processor (host processor 10, fig. 3) connected to a network and a printer (printer 1, fig. 3) for executing a print job sent from the data processor via the network (fig. 3), the data processor having a first software program (e.g. operating program stored on memory 12, fig. 3) which is installed therein, and the printer having a second software program (printer driver stored on memory 20, fig. 3) which is installed.

However, Benjamin fails to explicitly teach and/or suggest the management device comprising: (1) a controller for determining adaptability between an old version of the first software program that has already been installed and a new version of the second software program, or for determining adaptability between an old version of the second software program that has already been installed and a new version of the first software program, where the first software program is of a type different than the second software program; and (2) an updating controller for executing determined process to update the first and the second software programs on the data processor and the printer based on the determination result by the determining controller, wherein (3) when the determining controller determines that there is no adaptability between the new version of the first software program and the old version of the second software program, the updating controller updates the second software program and then updates the first software program, wherein (4) when the determining controller determines that there is no adaptability between the new version of the second software program and the old version of the first software program, the updating controller updates the first software program and then updates the second software program.

Matsuura, in the same field of endeavor for updating software programs, teaches a management device comprising: (1) a controller (CPU 26, fig. 4) for determining adaptability between an old version of the first software program that has already been installed and a new version of the second software program, or for determining adaptability between an old version of the second software program that has already been installed and a new version of the first software program (determine whether application program is compatible with system software, fig. 5, col. 2, lines 1-55 and col. 7, lines 10-50), where the first software program is of a type different than the second software program; and (2) an updating controller (CPU 26, fig. 4) for executing determined process (predetermined process/algorithm "checking process", col. 6, lines

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55-65 and col. 8, lines 30-33) to update the first and the second software programs on the data processor and the printer based on the determination result (based upon determination results, col. 7, lines 10-45) by the determining controller, wherein (3) when the determining controller determines that there is no adaptability (determining compatibility based upon total ECC values, fig. 6) between the new version of the first software program and the old version of the second software program, the updating controller updates the second software program (load system software, fig. 8) and then updates the first software program (load application program, fig. 8), wherein (4) when the determining controller determines that there is no adaptability between the new version of the second software program and the old version of the first software program (determining compatibility based upon total ECC values, fig. 6), the updating controller updates the first software program (loads application program, fig. 6) and then updates the second software program (loads system program, fig. 6). Also notes: both programs can be loaded at the same time (fig. 7, col. 10, lines 38-46).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify management device of Benjamin to include a update controller for determining compatibility between two software/programs as taught by Matsuura (e.g. to determine whether printer driver downloaded from the internet is compatible with the operating system that is currently running on host computer 10 prior installation of such printer driver as taught by Benjamin) because of a following reason: (●) to prevent installing of an application program which is not compatible with OS which that has been installed (Matsuura, col. 1, lines 40-42); (●) only such compatible application programs are installed, thereby making it possible to prevent the receiving apparatus (e.g. printer) from halting operation and/or malfunctioning (Matsuura, col. 7, lines 35-44); (●) to prevent installation of an application having an error, thereby, reliability of the application program execution can be improved (Matsuura, col. 7, lines 45-52).

Therefore, it would have been obvious to combine Benjamin with Matsuura to obtain the invention as specified in claim 1.

Regarding claim 5, Matsuura further teaches the management device according to claim 1, wherein the updating controller controls execution and prohibition (col. 7, lines 45-50) of

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update of the first and second software programs based on the determination result by the determining controller.

Regarding claim 6, Matsuura further discloses the management device according to claim 5, wherein when the determining controller determines that the new version of the first software program is not adaptable to neither of the new version of the second software program and the old version of the second software program, the updating controller prohibits the first software program already installed from being updated (prohibiting updates if software/firmware are incompatible with each other, col. 7, lines 45-52).

Regarding claim 7, Matsuura further discloses the management device according to claim 5, wherein when the determining controller determines that the new version of the second software program is not adaptable to neither the new version or the old version of the first software program, the updating controller prohibits the second software program already installed from being updated (prohibiting updates if software/firmware are incompatible with each other, col. 7, lines 45-52).

Regarding claim 8, Matsuura further discloses 8, the management device according to claim 1, wherein the updating controller sends a message which prompts update of the first and the second software programs to the data processor to display the message (col. 7, lines 10-45), based on the determination result by the determining controller.

Regarding claim 9, Matsuura further discloses the management device according to claim 1, further comprising a memory (memory 27, fig. 4) for storing information about the adaptability between new version and old version for the first software program and the second software program, wherein the determining controller downloads the information about the

adaptability (fig. 5) via the network into the memory to determine the adaptability based on the downloaded information.

Regarding claim 10, Matsuura further discloses the management device according to claim 1, wherein the management device is incorporated in the printer (CPU 26, fig. 4). Also see CPU 40 of Benjamin for details.

Regarding claim 11, Benjamin further discloses the management device according to claim 10, wherein the updating controller receives information about the version of the first software (fig. 4) program installed in the data processor, as well as the print job (fig. 2) sent from the data processor, and executes said predetermined process based on the received information about the version.

Regarding claim 12, Benjamin further discloses the management device according to claim 1, wherein when the other data processor (plurality of PCs connected to a network is well known) is connected to the network, the updating controller also executes the predetermined process to the other data processor.

Regarding claim 13, Benjamin further discloses the management device according to claim 1, wherein the first software program (operating software 12, fig. 2) controls the data processor to generate a print job corresponding to the printer, and the second software program controls (printer driver stored in memory 20, fig. 3) the printer to execute the print job generated by the first software program.

Regarding claims 14, 18-22, recite limitations that are similar to those as described in claims 1, 5-8 above; therefore, same rejection rationale/basis as described in claims , 5-8 also applied to claims 14, 18-22.

Regarding claims 23-24, Benjamin further discloses wherein the management device comprising a activating controller for accessing periodically a WEB site on which the latest version of the first and the second software are registered, determining whether or not the first and the second software programs registered on the WEB site are (downloading updated/new version of printer driver via Internet/Web site, col. 3, lines 50-67 to col. 4, lines 1-40) updated, and activating the determining controller and the updating controller when the first and second software programs are determined to be updated.

Regarding claims 25, 27-30: Claims 25-30 are the methods corresponding to the apparatus 1, 5-8 (respectively). The methods are included by the operation of the apparatus as described in claims 1, 5-8. Please see claims rejection basis/rationale as described in claims 1, 5-8 above.

Regarding claims 31,33-35: Claims 31,33-35 are the method claims corresponding to the apparatus claims 1-2, 5, 8 (respectively). The methods are included by the operation of the apparatus as described in claims 1-2, 5, 8. Please see claims rejection basis/rationale as described in claims 1-2, 5, 8 above.

Claims 36, 38-41 correspond to method claims 25, 27-30 except computer readable memory medium for storing program is claimed rather than printing system or data output apparatus and/or method. All computers/printers have some type of computer readable memory medium (memory 20, fig. 3 of Benjamin) for storing computer programs, hence claims 36, 38-41 would be rejected using the same rationale as in claims 25, 27-30.

Claims 42, 43-46 correspond to method claims 31,33-35 except computer readable memory medium for storing program is claimed rather than printing system or data output apparatus and/or method. All computers/printers have some type of computer readable memory medium (memory 20, fig. 3 of Benjamin) for storing computer programs, hence claims 42, 43-46 would be rejected using the same rationale as in claims 31,33-35.

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Regarding claims 47 & 49, recite limitations that are similar to those as described in claims 1 and 8 above; therefore, same rejection rationale/basis as described in claims 1 and 8 also applied to claims 47 & 49.

Regarding claims 50 & 52: Claims 50 & 52 are the method claims corresponding to the apparatus claims 47 & 49 (respectively). The methods claims are included by the operation of the apparatus claims. Please see claims rejection basis/rationale as described in claims 47 & 49 above.

Claims 53 & 55 correspond to method claims 50 & 52 except computer readable memory medium for storing program is claimed rather than printing system or data output apparatus and/or method. All computers/printers have some type of computer readable memory medium (memory 20, fig. 3 of Benjamin) for storing computer programs, hence claims 53 & 55 would be rejected using the same rationale as in claims 50 & 52.

Response to Arguments

Applicant's arguments, see pages 15-16, filed 10/13/05, with respect to the rejection(s) of claim(s) 1, 5-14, 18-25, 27-31, 33-36, 38-42, 44-47, 49-50, and 52-55 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art references.

Conclusion

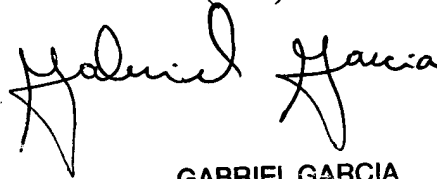
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thierry L. Pham whose telephone number is (571) 272-7439. The examiner can normally be reached on M-F (9:30 AM - 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (571)272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thierry L. Pham



GABRIEL GARCIA
PRIMARY EXAMINER